

**REMARKS**

Applicant appreciates the Examiner's thorough review of the application, the indication of allowable subject matter, and the interview courteously granted to Applicant's Counsel Clifford D. Hyra on December 5, 2008.

Reconsideration and allowance of all claims as amended are requested.

Although Applicant disagrees with the rejections of record, solely in an effort to expedite prosecution Claim 22 has been amended to more clearly distinguish from the prior art. Claim 29 has been rewritten in independent form to place it in condition for allowance. Withdrawn Claim 52 has been canceled. No new matter has been added by the amendments.

Application 10/921,350 was filed after the present application. It also has been allowed and is now an issued patent. Therefore, there should be no need for a terminal disclaimer.

Claims 1 – 20, 30 – 51, and 53 – 55 have been withdrawn. Claims 21 and 52 have been canceled. Claims 22 - 29 are now pending in the application, including independent Claim 22 and independent and allowed Claims 28 and 29.

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**TELEPHONE INTERVIEW RECORD**

Applicant appreciates the telephone interview courteously granted to Applicant's Counsel Clifford D. Hyra on December 5, 2008. The parties discussed a proposed amendment to Claim 22 to overcome the prior art of record. The Examiner indicated that he would need more time to consider the amendment and to conduct further search, but that it preliminarily appeared to overcome the prior art of record. The Examiner recommended ensuring that adequate support for the amendment is found in the Specification.

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Claims 22 - 27 are patentable under 35 U.S.C. 102(b) and 103(a) over Li (5,727,681) and Kunimune et al. (4,892,189).

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Kunimune and Li do not teach or suggest all the claim limitations of Claims 22 – 29 as amended.

For example, neither Kunimune nor Li teaches or suggests that the one or more sets of clips bend inwards lengthwise along a central longitudinal axis for inserting into the one or more mounting recesses on the edges of the trays. This property of the clips is shown in the figures and particularly in Figures 3 and 11. This limitation is also supported throughout the Specification. Page 2, lines 5-6 of the Specification teach: "The clips may have a trapezoidal shape with a triangular recess that allows them to bend along a central, longitudinal living hinge axis." Page 4, lines 7-8 teach "bent, dovetail shaped clips... pass through the flexible material and into corresponding dovetail shaped mounting recesses." Page 4, lines 10-17 teach "the cover and flexible spine material is overlaid so that the cutout openings are over the dovetail shaped mounting recesses on the trays. The clips are then bent and passed through the flexible spine material. Pressure is applied to the bent clips and the clips return to their original configuration and lock into the dovetail shaped mounting recesses."

Page 8, lines 6-12 teach "Figure 3 shows a dovetail clip 11 in a bent position, ready to be

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inserted into a dovetail shaped mounting recess 33 of a tray 35. Pressure 51 is applied to the ends 25, 27 of the clip 11 and the clip 11 bends 53 along the peak 15 of the triangular cutout 13. In order to fit the clip 11 into the opening 33, the largest width of the clip 11 must be compressed to a size less than the smallest size of the mounting recess 33 on the outside edge 37 of the tray 35. This allows the clip 11 to pass through top edges 55, 57 of the mounting recess 33 and into the wider opening 59 further into the tray 35." Page 10, lines 13-15 teach "The clip 11 begins in a relaxed, non-flexed state 77. The clip 11 is then bent 79 far enough to allow passage of the ends 17, 19 through the top edges 55, 57 of the mounting recess 33."

This distinguishes from the clips cited to by the Examiner in Kunimune and Li. As the Examiner notes, portions of these clips must bend outwards to receive the raised insertion block 43 of the Li holder or engaging members 38a, 38b of Kunimune. However, these traditional clips bend outwards to receive a member and do not bend inwards lengthwise along a central longitudinal axis for insertion into a mounting recess as the clips of the present invention do. Should the Examiner feel that a further clarifying amendment is necessary for allowance, Applicant encourages the Examiner to call the undersigned at the number given in the signature block to discuss the possibility of an Examiner's Amendment.

For at least those reasons, Claim 22 is patentable over all references. The rejections under 35 U.S.C. 102(b) and 103(a) are improper and should be withdrawn. Claims 23 - 27 and 29 depend from independent and patentable Claim 22 and add further patentable features. Examples are given below.

Claim 23 adds that after the bent clips are inserted into the mounting recesses, pressure is applied to an exposed surface until the clips return to their initial configuration and for locking

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the clips into the mounting recesses. No reference teaches or suggests this feature. The Examiner argues that the method steps of Claim 23 are not given patentable weight. However, they should be given patentable weight to the extent that they affect the claimed structure.

Claim 26 adds that the one or more clips have generally trapezoidal shapes with triangles removed from a longer side surface for bending the one or more clips along the longitudinal axis. No reference teaches or suggests this feature. The Examiner argues that this construction, if not shown in the references, would have been an obvious expedient. However, Applicant disagrees. This particular shape is essential to the unique clips of the present invention that bend inwards lengthwise, but would serve no purpose in the prior art devices.

Applicant also disagrees with the Examiner regarding the need for explicating the basis for rejection of the dependent claims and in this regard maintains the remarks from the Response of March 10, 2008.

For at least these reasons, the rejection of Claims 22 - 27 as amended under 35 U.S.C. 102(b) and 103(a) is improper and should be withdrawn.

Applicant believes that the Application is now in condition for allowance. Should the next Office Action be something other than a Notice of Allowance, Applicant respectfully requests the favor of a telephone call to the undersigned to resolve any remaining issues and expedite disposal of the case.

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**CONCLUSION**

Reconsideration and Allowance of all claims as amended are respectfully requested.

Respectfully,



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